

**ASSEMBLY BILL**

**No. 2225**

---

**Introduced by Assembly Member Gaines**

February 18, 2010

---

An act to repeal and add Section 18663 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2225, as introduced, Gaines. Taxation: wage withholding.

Existing law requires the Franchise Tax Board to prepare wage withholding tables to be used by employers for purposes of withholding taxes on wages paid that produce a sum that is equal to 10% more than the sum specified prior to November 1, 2009. Existing law allows, in lieu of the withholding tables, withholding at a rate of 6.6% with respect to supplemental wages and at a rate of 10.23% with respect to stock options and bonus payments.

This bill would eliminate the requirement that wage withholding tables produce a sum that is equal to 10% more than the sum specified prior to November 1, 2009, for purposes of the withholding tables. This bill would also decrease the withholding rates to 6% for supplemental wages and to 9.3% for stock options and bonus payments.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 18663 of the Revenue and Taxation Code  
2 is repealed.

3     ~~18663. (a) (1) The Franchise Tax Board shall annually (or~~  
4 ~~more often if necessary) prepare and make available to the~~  
5 ~~Employment Development Department, wage withholding tables~~  
6 ~~that shall be used by every employer making payment of any wages~~  
7 ~~to a resident employee for services performed either within or~~  
8 ~~without this state; or to a nonresident employee for services~~  
9 ~~performed in this state, to deduct and withhold from those wages~~  
10 ~~for each payroll period, a tax computed in a manner as to produce,~~  
11 ~~so far as practicable, with due regard to the credits for personal~~  
12 ~~exemptions allowable under Section 17054, a sum that is~~  
13 ~~substantially equivalent to the amount of tax reasonably estimated~~  
14 ~~to be due under Part 10 (commencing with Section 17001) resulting~~  
15 ~~from the inclusion in the gross income of the employee the wages~~  
16 ~~which were subject to withholding.~~

17     ~~(2) For wages paid on or after November 1, 2009, wage~~  
18 ~~withholding tables prepared by the Franchise Tax Board pursuant~~  
19 ~~to this subdivision shall produce, so far as practicable, with due~~  
20 ~~regard to the credits for personal exemptions allowable under~~  
21 ~~Section 17054, a sum that will significantly prevent~~  
22 ~~underwithholding by using an amount equal to 10 percent more~~  
23 ~~than the sum described in paragraph (1).~~

24     ~~(b) (1) (A) For supplemental wages paid on or after January~~  
25 ~~1, 1992, the rate of withholding that may be applied to~~  
26 ~~supplemental wages in lieu of the wage withholding tables~~  
27 ~~specified in subdivision (a) shall be 6 percent.~~

28     ~~(B) For supplemental wages paid on or after November 1, 2009,~~  
29 ~~the rate of withholding shall be 6.6 percent.~~

30     ~~(2) For purposes of this subdivision, "supplemental wages"~~  
31 ~~includes, but is not limited to, bonus payments, overtime payments,~~  
32 ~~commissions, sales awards, back pay including retroactive wage~~  
33 ~~increases, and reimbursements for nondeductible moving expenses~~  
34 ~~that are paid for the same or a different period, or without regard~~  
35 ~~to a particular period.~~

36     ~~(c) (1) For stock options and bonus payments that constitute~~  
37 ~~wages paid on or after January 1, 2002, the rate of withholding~~  
38 ~~that may be applied to those stock options and bonus payments in~~

1 ~~lieu of the wage withholding tables specified in subdivision (a)~~  
2 ~~shall, notwithstanding subdivision (b), be 9.3 percent.~~

3 ~~(2) For stock options and bonus payments that constitute wages~~  
4 ~~paid on or after November 1, 2009, the rate of withholding shall~~  
5 ~~be 10.23 percent.~~

6 SEC. 2. Section 18663 is added to the Revenue and Taxation  
7 Code, to read:

8 18663. (a) The Franchise Tax Board shall annually (or more  
9 often if necessary) prepare and make available to the Employment  
10 Development Department, wage withholding tables that shall be  
11 used by every employer making payment of any wages to a resident  
12 employee for services performed either within or without this state;  
13 or to a nonresident employee for services performed in this state,  
14 to deduct and withhold from those wages for each payroll period,  
15 a tax computed in a manner as to produce, so far as practicable,  
16 with due regard to the credits for personal exemptions allowable  
17 under Section 17054, a sum that is substantially equivalent to the  
18 amount of tax reasonably estimated to be due under Part 10  
19 (commencing with Section 17001) resulting from the inclusion in  
20 the gross income of the employee the wages which were subject  
21 to withholding.

22 (b) (1) For supplemental wages paid on or after the effective  
23 date of the act adding this section, the rate of withholding that may  
24 be applied to supplemental wages in lieu of the wage withholding  
25 tables specified in subdivision (a) shall be 6 percent.

26 (2) For purposes of this subdivision, "supplemental wages"  
27 includes, but is not limited to, overtime payments, commissions,  
28 sales awards, back pay including retroactive wage increases, and  
29 reimbursements for nondeductible moving expenses that are paid  
30 for the same or a different period, or without regard to a particular  
31 period.

32 (c) For stock options and bonus payments that constitute wages  
33 paid on or after the effective date of the act adding this section,  
34 the rate of withholding that may be applied to those stock options  
35 and bonus payments in lieu of the wage withholding tables  
36 specified in subdivision (a) shall, notwithstanding subdivision (b),  
37 be 9.3 percent.

38 SEC. 3. This act is an urgency statute necessary for the  
39 immediate preservation of the public peace, health, or safety within

- 1 the meaning of Article IV of the Constitution and shall go into
- 2 immediate effect. The facts constituting the necessity are:
- 3 In order to provide appropriate tax relief at the earliest time
- 4 possible, it is necessary that this act go into immediate effect.